

**TITLE 7**  
**HEALTH AND ENVIRONMENT**

**ORDINANCE**  
**2007-7-4-25**

**ARTICLE 14**  
**HENRY COUNTY HEALTH DEPARTMENT ON-SITE  
SEWAGE DISPOSAL SYSTEM ORDINANCE**

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# **PREFACE**

The purpose of this Ordinance is to safeguard public health by ensuring on-site sewage systems do not discharge into the waters of the State of Indiana. This Ordinance is designed to regulate the installation, construction, maintenance and operation of residential and commercial on-site sewage disposal systems in Henry County, Indiana in compliance with state laws and regulations and provide penalties for violations thereof.

This Ordinance incorporates by reference Indiana State Department of Health Rule, 410 IAC 6-8.1 "Residential Sewage Disposal Systems"; Indiana State Department of Health Rule 410 IAC 6-10 "Commercial On-site Wastewater Disposal"; Bulletin S. E. 11 "Sanitary Vault Privy" and Bulletin S. E. 13 "On-site Water Supply and Wastewater Disposal for Public and Commercial Establishments". This Ordinance further incorporates any updates, amendments, or revisions that may occur from time-to-time, and any bulletin or publication which may hereafter be published by the Indiana State Department of Health as a supplement or successor to Indiana State Department of Health Rule, 410 IAC 6-8.1 "Residential Sewage Disposal Systems"; Indiana State Department of Health Rule 410 IAC 6-10 "Commercial On-site Wastewater Disposal"; Bulletin S. E. 11 "Sanitary Vault Privy"; and Bulletin S. E. 13 "On-site Water Supply and Wastewater Disposal for Public and Commercial Establishments".

The Henry County Health Department is authorized herein to issue on-site sewage system permits, collect permit fees, and penalties, perform inspections, conduct investigations, hold hearings, order or otherwise compel correction of violations of this Ordinance, and is otherwise authorized to perform all actions necessary for the administration and enforcement of this Ordinance.

Be it ordained by the Board of Commissioners of Henry County, State of Indiana, that:

## **Chapter 1: Definitions**

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

### **7-14-1-1**

"Alternative Soil Absorption Field Technology" means any soil absorption field technology or design not described in Indiana State Department of Health residential sewage disposal system rules for which sufficient research, field performance, or data for use in Indiana has been documented demonstrating that it meets departmental standards.

### **7-14-1-2**

"Bedroom" means any room in a residence that is forty-five (45) square feet in area or more containing a closet structure and at least one (1) operable window or exterior door approved for emergency egress or rescue. A bedroom is none of the following:

1. Bathroom
2. Kitchen
3. Closet
4. Foyer
5. Pantry
6. Laundry room
7. Furnace room
8. Utility room
9. Living or Family Room
10. Dining Room
11. Den

12. Office
13. Library

**7-14-1-3**

“Commercial Facility” means any building or place not used exclusively as a residence or residential outbuilding. A commercial facility includes, but is not limited to:

1. an office building;
2. a manufacturing facility;
3. a multi-family residence
4. apartment,
5. multiplex,
6. townhouse, or
7. condominium;
8. a motel; a restaurant;
9. a regulated facility; and
10. any grouping of residences served by a cluster on-site sewage disposal system.

**7-14-1-4**

“Disturbance or Alteration of a Soil Absorption Field Site” means, but is not limited to:

1. The addition of fill,
2. The cutting, scraping or removal of soil,
3. Compaction of soil at the site resulting in densic material,
4. Erosion or sedimentation,
5. removal of tree root balls.

**7-14-1-5**

“Experimental Soil Absorption Field Technology” means any soil absorption field technology or design not described in Indiana State Department of Health residential sewage disposal system rules for which sufficient research, field performance, or data for use in Indiana has been documented demonstrating that it meets departmental standards.

**7-14-1-6**

“Health Officer” means the individual duly appointed as Health Officer of Henry County, Indiana, by the Henry County Board of Health, or his/her authorized representative.

**7-14-1-7**

“On-site Sewage System” or as abbreviated “OSS” means all equipment and devices necessary for proper conduction, collection, storage, and treatment of sewage from a residence or commercial facility.

**7-14-1-8**

“On-site Sewage System Failure” means a system that exhibits one (1) or more of the following:

1. The system refuses to accept sewage at the rate of application, thereby interfering with the normal use of plumbing fixtures or resulting in the discharge of effluent to the ground surface or to surface water;
2. Failure of, or damage to, any component of the system, thereby interfering with normal use of plumbing or resulting in the discharge of effluent to the ground surface or to surface waters;
3. Effluent discharged from the system causes contamination of a potable water supply, ground water, or surface water.

**7-14-1-9**

“On-site Sewage System Repair” means the repair or replacement of any system component other than the replacement or expansion of a soil absorption field.

**7-14-1-10**

“On-site Sewage System Replacement” means the replacement or expansion of a soil absorption field.

**7-14-1-11**

“Plan Submittal” means all information required for the Health Department to review the design, location, construction, maintenance, and operation of a proposed on-site sewage system. A plan submittal includes, but is not limited to:

1. an application,
2. written site evaluation report,
3. plot plan, and
4. on-site sewage system plan.

**7-14-1-12**

“Point Source Discharge” means sewage or other water pollutants that come from a concentrated originating point, such as a pipe from a residential or commercial facility, with a specific point of discharge, and is regulated by federal, state or local laws.

**7-14-1-13**

1. “Regulated Facility” means any facility regulation under Indiana Administrative Code of any state agency such as:
2. a school facility,
3. a child care facility,
4. a long-term care facility,
5. an acute care facility,
6. a correctional facility,
7. a state facility,
8. a mobile home park,
9. a campground, or
10. an agricultural labor camp.

**7-14-1-14**

“Residence” means a one- or two-family dwelling, built as a single structure, used or intended to be used for permanent or seasonal human habitation for sleeping one (1) or two (2) families.

**7-14-1-15**

“Residential Outbuilding” means a building located on the property of the residence used by the owner, and not used or intended to be used for permanent or seasonal human habitation or sleeping.

**7-14-1-16**

“Secondary Treatment Device” means any biological, chemical, or physical process or system for improving sewage effluent quality after primary treatment in a septic tank and prior to discharge to a soil absorption field.

**7-14-1-17**

“Sewage” means all human excrement and water-carried waste derived from ordinary living processes.

**7-14-1-18**

“Soil” means natural, non-filled, mineral or organic matter on the surface of the earth that shows the effects of genetic and environmental factors. These factors include:

1. climate (water and temperature effects),
2. microorganisms,
3. macro-organisms, and
4. topography acting on a parent material over time.

**7-14-1-19**

“Soil Absorption Field” means a system of trenches or elevated beds into which effluent discharges for absorption by the soil and the effluent distribution device that directly serves the trenches or elevated beds.

**7-14-1-20**

“Soil Scientist.” means an individual registered with the American Registry of Certified Professionals in Agronomy, Crops and Soils (ARCPACS) or the Indiana Association of Professional Soil Classifiers (IAPSC), as a certified professional soil scientist, soil specialist, or soil classifier.

## **Chapter 2: General On-site Sewage System Requirements**

**7-14-2-1**

No person may cause or contribute to a health hazard or water pollution by disposing of any organic or inorganic matter from an on-site sewage system into surface water, ground water, or onto the ground surface.

**7-14-2-2**

The point source discharge of sewage, treated or untreated, from a residence or its associated sewage system to surface water, ground water, or the ground surface is prohibited.

**7-14-2-3**

Any residence or residential outbuilding that generates sewage or commercial facility that is not connected to a wastewater treatment plant shall comply with this ordinance and 410 IAC 6-8.1.

**7-14-2-4**

Any residence or residential outbuilding, which generates sewage, not connected to a wastewater treatment plant, must have an on-site sewage system which is not in failure.

**7-14-2-5**

Any commercial facility not connected to a wastewater treatment plant and which does not have a point source discharge permit under IC 13-18-19 must have an on-site sewage system which is not in failure.

**7-14-2-6**

The point source discharge of sewage, treated or untreated, from a commercial facility shall comply with 327 IAC 5.

**7-14-2-7**

The Health Officer or his agents shall, in order to determine if a person is subject to, or in violation of, this Ordinance, be permitted to enter upon all properties at reasonable times to:

1. inspect facilities, equipment or records;
2. investigate allegations;
3. determine soil characteristics;
4. conduct tests; and
5. collect samples

**7-14-2-8**

The on-site sewage system soil absorption field site shall not be disturbed or altered, except as approved by the conditions of the permit, between the time of collection of information for the written site evaluation report and commencement of construction of the on-site sewage system.

**7-14-2-9**

An on-site sewage system may not receive water from any of the following:

1. roof drains,
2. foundation drains,
3. sump pumps,
4. swimming pool drains,
5. area drains,
6. field tiles, or
7. floor drains.

**7-14-2-10**

An on-site sewage system may not be used for the disposal of chemical wastes other than water softener and iron filter waste. For the purposes of this ordinance, the normal use of housekeeping cleaners and detergents do not constitute chemical waste.

**7-14-2-11**

All residential and commercial on-site sewage systems shall be installed, constructed and maintained in a manner approved by the Health Officer and in compliance with the minimum standards set forth in 410 IAC 6-8.1 or other standards as may be adopted from time-to-time by the Indiana State Department of Health which said standards are incorporated herein by reference.

**7-14-2-12**

If the slope of the site in which the absorption system is to be built is greater than two percent (2%) or if the loading rate of three-tenths (0.3) gallons per day per square foot or less, at least fifty (50) feet of dispersal area must be provided downslope of the absorption system. If the slope of the site on which the absorption system is to be built is two percent (2%) or less and if the loading rate of the soil in the dispersal area is not less than five-tenths (0.5) gallons per day per square foot, at least thirty (30) feet of dispersal area must be provided downslope of the absorption system. No obstruction to horizontal flow of water such as parking areas, building foundations, swimming pools, or any other structure that would compact soil in the dispersal area may be placed in the dispersal area.

**7-14-2-13**

Any installation of an experimental technology on-site sewage system shall have a set-aside area for the installation of a replacement alternate form of on-site sewage system.

## **Chapter 3: Application and Plan Submittal**

**7-14-3-1**

The owner or his agent shall submit to the health department a completed application and a written plan for construction of a new on-site sewage system or for an on-site sewage system repair or replacement.

**7-14-3-2**

The application and plan submittal for an on-site sewage system must address the demands and limitations of the site.

## **Chapter 4: On-site Sewage System Permits**

### **7-14-4-1**

The owner or agent shall obtain a written permit signed by the Health Officer for the construction of an on-site sewage system prior to the following:

1. The start of construction or the placement of a residence that will not be connected to a wastewater treatment plant at the time of initial occupancy;
2. The start of any construction of a residential on-site sewage system repair or replacement;
3. The start of construction of any replacement, reconstruction, or expansion of a residence which may increase the number of bedrooms;
4. The start of construction of a residential outbuilding which will generate sewage, or the addition of plumbing to an existing residential outbuilding, when the outbuilding is not connected to a wastewater treatment plant;
5. The start of construction of any commercial facility where plan review and permit issuance has been delegated by the Indiana State Department of Health to the Health Department.

### **7-14-4-2**

Any proposed changes, alterations or addition to an on-site sewage system plan submittal for which the Health Department has issued a permit shall be approved, in writing, by the Health Department prior to the implementation of the changes.

### **7-14-4-3**

A residential or commercial on-site sewage system permit shall expire upon completion and final approval of the on-site sewage system construction or within one (1) year after issuance, whichever comes first.

### **7-14-4-4**

The approval of a plat by the local plan commission or the county recorder does not constitute approval by the Health Department for the construction of an on-site sewage system.

### **7-14-4-5**

The Health Department shall issue or deny, in writing to the owner, a residential on-site sewage system permit within forty-five (45) days of receipt of a completed application and complete approved plot plan submittal in accordance with IC 16-41-25-1.

### **7-14-4-6**

A permit and inspection fee of:

1. one-hundred dollars (\$100.00) for the new construction of an OSS;
2. seventy-five dollars (\$75.00) for the replacement or expansion of an OSS;
3. twenty-five dollars (\$25.00) for the replacement of a component of an OSS (i.e. septic tank, distribution box, broken header line, etc);
4. twenty-five dollars (\$25.00) for any residential connection into an existing OSS which is not in failure.

### **7-14-4-7**

The permit, if issued, shall be posted prior to commencement of construction in a conspicuous place at or near the building where the on-site sewage system is under construction.

### **7-14-4-8**

All fees collected under the terms of this Ordinance shall be receipted and credited to the Henry County Health Fund for services rendered in enforcing this Ordinance.

## **Chapter 5: Collection Accounting and Disposition**

### **7-14-5-1**

The Henry County Health Department shall collect such fees established as a part of this Ordinance in accord with the schedules designated in Chapter 4 aforementioned.

### **7-14-5-2**

All fees and fines collected by the Henry County Health Department shall be accounted for in detail for each Permit Fee or fine.

### **7-14-5-3**

All fees and fines collected by the Henry County Health Department under this Ordinance shall be transferred to the Henry County Health Fund. The monies collected in accord with the provisions of this Ordinance shall be used only for the maintenance of or for future expansion of the specific program service from which they are derived.

## **Chapter 6: Written Site Evaluation Reports**

### **7-14-6-1**

A written site evaluation report shall be provided for all sites proposed for a new or replacement on-site sewage system. The written site evaluation report shall be reviewed as part of the plan submittal.

### **7-14-6-2**

For residential and commercial on-site sewage systems, a soil scientist as defined 7-14-1-20 of this Ordinance shall provide the written site evaluation report.

## **Chapter 7: Inspections**

### **7-14-7-1**

The on-site sewage system, when constructed, shall comply with the requirements of this Ordinance and 410 IAC 6-8.1 or 410 IAC 6-10, or as may be amended from time-to-time.

### **7-14-7-2**

No portion of the residential on-site sewage system may be covered, prior to inspection, which would preclude the Health Officer from making a determination that the residential on-site sewage system was installed in compliance with the requirements of the permit.

### **7-14-7-3**

No portion of a commercial on-site sewage system may be covered, prior to inspection, which would preclude the Health Officer, the design engineer, or the architect from making a determination that the commercial on-site sewage system was installed in compliance with the requirements of the permit.

### **7-14-7-4**

The Health Officer shall be permitted to inspect the work at any stage of construction.

### **7-14-7-5**

The owner or agent shall notify the Health Officer at least twenty-four (24) hours before the work is ready for final inspection. The final inspection shall be made within the shortest reasonable time, but not to exceed two (2) working days of receipt of notice to the Health Officer.

## **Chapter 8: Power For Inspection**

### **7-14-8-1**

The Health Officer, bearing proper credentials and identification, shall be permitted to enter upon all properties subject to the provisions of this Ordinance at reasonable times for purposes of:

1. inspections,
2. observations,
3. measurements,
4. sampling and testing necessary to carry out the provisions of this Ordinance.

### **7-14-8-2**

The Health Officer may compel the immediate suspension of any work, completed or in progress, or planned, that is in violation of any provisions of this Ordinance. Such suspension order shall be posted at the construction site and confirmed by written notice to the owner or occupant of the premises and any person actively engaged in the performance of said work. Failure to comply with such suspension order shall constitute a violation of this Ordinance and the violator shall be subject to the penalties prescribed in Chapter 13 of this Ordinance.

## **Chapter 9: Application Denial and Permit Revocation**

### **7-14-9-1**

After review of an application and plot plan submittal, the Health Department may deny an application for construction of a new on-site sewage system or for an on-site sewage system repair or replacement. The reasons for the denial include, but are not limited to, any of the following, or combination thereof:

1. The on-site sewage system plan submittal does not address the demands and limitation of the site;
2. The on-site sewage system plan submittal does not comply with the requirements of 410 IAC 6-8.1 or this Ordinance;
3. The owner failed to demonstrate that the proposed on-site sewage system can be designed, located, constructed, maintained, and operated in compliance with 410 IAC 6-8.1 or this Ordinance;
4. False information was submitted in the application;
5. Information submitted in the written site evaluation report, construction design plan, or on-site sewage system plan is found to be incomplete or erroneous;
6. The owner failed to respond to a request for a revised plan submittal or for additional information within thirty (30) days.

### **7-14-9-2**

The Health Department may also deny an application for construction of a new on-site sewage system or an on-site sewage system repair or replacement if:

1. a sanitary sewer of a wastewater treatment plant is located within three hundred (300) feet of the property line of the affected property, or
2. the estimated cost of a sewer construction and connection does not exceed one hundred fifty percent (150%) of the estimated cost of an on-site sewage system, and the sanitary sewer and the treatment facility of the wastewater treatment plant have adequate capacity as defined by the Indiana Department of Environmental Management.

### **7-14-9-3**

If an application is denied, the owner shall be advised, in writing, of the basis for the denial, the right and procedure for appeal, the deadline for appeal, and the opportunity for a fair hearing.

#### **7-14-9-4**

The Health Department may revoke a permit it has issued. The reasons for revocation include, but are not limited to, any of the following:

1. The soil absorption field site has been disturbed or altered after collection of information for the written site evaluation report. Alteration of the site includes, but is not limited to the addition of fill; the cutting, scraping, or removal of soil; the presence of densic material as a result of compaction of the site;
2. False information has been submitted to obtain the permit;
3. Information submitted in the written site evaluation report, plat plan, or on-site sewage system plan is found to be erroneous;
4. Errors or omissions are discovered after the permit has been issued;
5. The on-site sewage system does not comply with 410 IAC 6-8.1 or this Ordinance, or the conditions of the permit.

#### **7-14-9-5**

If a permit is revoked, the owner shall be advised, in writing, of the basis of the revocation, the right and procedure for appeal, the deadline for appeal, and the opportunity for a fair hearing.

#### **7-14-9-6**

If a permit is revoked, construction may not proceed on the on-site sewage system, the residence, or commercial facility it serves, until a new permit is issued.

#### **7-14-9-7**

If a permit has been revoked, the following shall occur for a new permit to be issued:

1. The owner shall provide, as necessary, a new or revised site evaluation, and a revised plat plan and on-site sewage system plan.
2. The proposed on-site sewage system shall comply with the requirements of 410 IAC 6-8.1 or 410 IAC 6-10 and this Ordinance.

## **Chapter 10: On-site Sewage System Failure and Correction**

#### **7-14-10-1**

The owner shall correct the failure of an on-site sewage system or its components, whichever is applicable, within the time limit set by the Health Officer.

#### **7-14-10-2**

When replacement of the soil absorption field is required, procedures pertinent to plan submittal and on-site sewage system permits in this Ordinance shall be followed.

#### **7-14-10-3**

Soil absorption field replacement for a residential on-site sewage system shall be made in accordance with the application of optimum system design based on the site, and the best judgment of the Health Department, except that:

1. replacement of a soil absorption field cannot be contrary to 7-14-2-1 and 7-14-2-2 of this Ordinance; and
2. no portion of a replacement soil absorption field can be constructed to a depth greater than forty-eight (48) inches below final grade.

## **Chapter 11: Enforcement**

### **7-14-11-1**

For both residential and commercial facility on-site sewage systems, the Health Officer, stating the nature of the violation and providing a time limit for satisfactory correction thereof, shall serve any person in violation of any of the provisions of this Ordinance or any condition of a permit a written order.

### **7-14-11-2**

An owner or agent, upon receipt of an order, shall comply with the order and 410 IAC 6-8.1 or 410 IAC 6-10 and this Ordinance.

## **Chapter 12: Appeals**

### **7-14-12-1**

Appeals shall lie from any of the following decisions made or action taken by the Health Officer:

1. denial of any application for a permit to construct, install, alter or repair a private sewage disposal system;
2. a determination pursuant to 7-14-7-2 or 7-14-9-1 of this Ordinance that work completed, in process or planned is in violation of any of the provisions of this Ordinance, or that any other violation of the provisions of this Ordinance exists.

### **7-14-12-2**

Any appeal may be filed with the Henry County Board of Health by any person aggrieved or affected by any decision of the Health Officer as set forth in Chapter 9 of this Ordinance. Such appeal shall be:

1. submitted in writing within ten days after the applicable decision of the Health Officer unless the appellant obtains any extension of time in writing from the Board of Health;
2. shall specify the adverse decision appealed from and the grounds therefore.

The Health Officer shall forthwith transmit to the Henry County Board of Health all of the papers in his office constituting the record of the case. The Henry County Board of Health, upon receipt of such notice and record, shall immediately select a reasonable time and place for the hearing of the appeal and shall give notice in writing to the appellant of the time and place thereof. The hearing of the appeal may be continued from time-to-time but the Board shall render a decision on the appeal within twenty (20) days thereafter. Any person may appear and testify at such hearing, either in person or by counsel.

### **7-14-12-3**

The Henry County Board of Health shall hear and decide the appeal, and may overrule or modify the decision or determination of the Health Officer appealed from if the Board determines that the Health Officer incorrectly decided the matter.

### **7-14-12-4**

The concurring vote of the majority of the members of the Henry County Board of Health shall be necessary to reverse or modify any determination or decision of the Health Officer.

## **Chapter 13: Penalties**

### **7-14-13-1**

The doing of any prohibited act or the omission of any required act governed by this Ordinance is declared to be a violation of this Ordinance. Any person declared to have committed a violation hereof shall, upon such finding, be fined in an amount not to exceed \$2,500.00. In addition to any

fine levied under this Ordinance, the Henry County Board of Health may enjoin any violation of this Ordinance by proceeding in any court of competent jurisdiction seeking to abate the public health hazard, nuisance or violation of this Ordinance.

**7-14-13-2**

The Henry County Board of Health shall also be entitled to seek any other legal remedy available against any person firm or corporation who shall violate any provision of this Ordinance.

## **Chapter 14: Enforcement Interpretation**

**7-14-914-1**

The Health Officer may initiate any procedures as he/she deems necessary for proper enforcement in order to carry out the purpose and intent of this ordinance.

## **Chapter 15: Severability**

**7-14-15-1**

The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance.

## **Chapter 16: Incorporated by Reference**

**7-14-16-1**

The requirements of Indiana State Department of Health Rule, 410 IAC 6-8.1 "Residential Sewage Disposal Systems"; Indiana State Department of Health Rule 410 IAC 6-10 "Commercial On-site Wastewater Disposal"; Bulletin S. E. 11 "Sanitary Vault Privy"; and Bulletin S. E. 13 "On-site Water Supply and Wastewater Disposal for Public and Commercial Establishments" are hereby incorporated by reference. This Ordinance further incorporates any updates, amendments, or revisions that may occur from time-to-time, and any bulletin or publication which may hereafter be published by the Indiana State Department of Health as a supplement or successor to Indiana State Department of Health Rule, 410 IAC 6-8.1 "Residential Sewage Disposal Systems"; Indiana State Department of Health Rule 410 IAC 6-10 "Commercial On-site Wastewater Disposal"; Bulletin S. E. 11 "Sanitary Vault Privy"; and Bulletin S. E. 13 "On-site Water Supply and Wastewater Disposal for Public and Commercial Establishments".

## **Chapter 17: Repeal and Effective Date**

**7-14-17-1**

All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed, and this Ordinance shall be in full force and effect thirty (30) days after its adoption and publication as provided by law.

Ordinance 2007-7-4-25 passed and adopted by the Commissioners of Henry County, State of Indiana, on this 25th day of April, 2007.

Signed:

Phillip J. Estridge

Larry D. Hale

William Cronk

Henry County Board of Commissioners  
New Castle, Indiana

Ordinance 2007-7-4-25 published on May 9, 2007 and May 10, 2007 in Henry County, Indiana.

Attested to:

Linda Ratcliff

Auditor, Henry County  
New Castle, Indiana

